UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/1997/SR.34
10 April 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 34th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 2 April 1997, at 4.20 p.m.

Chairman: Mr. SOMOL (Czech Republic)

CONTENTS

INDIGENOUS ISSUES (continued)

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

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GE.97-11616 (E)

CONTENTS (continued)

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS AND TRADE OF PAPUA NEW GUINEA

The meeting was called to order at 4.20 p.m.

INDIGENOUS ISSUES (agenda item 24) (continued) (E/CN.4/1997/100-102; E/CN.4/1997/NGO/35; E/CN.4/Sub.2/1996/21)

1. Ms. SPALDING (United Towns Agency for North-South Cooperation) said that recognition of the sufferings inflicted on groups of people was the key to understanding the essence of the Universal Declaration of Human Rights. For example, the founder of the Raoul Wallenberg Institute of Ethics, a survivor of Nazi tyranny, had noted a profound link between the pain and dehumanization of the Jews and that of the native peoples of the Americas.

2. The policy of attrition aimed at the remnants of the indigenous nations of the Americas was a continuation of the massive genocide that had begun in 1492. It was estimated that the indigenous population of the Americas had been reduced by some 100 million. That process had been described as the "American holocaust".

3. Three measures were necessary to halt that process of extinction and bring about the moral rebirth of the United States of America: a presidential statement of contrition for the wrongs committed against indigenous peoples; a policy of reparations to compensate for stolen lands, broken treaties and hostile policies; and the initiation of a movement of reconciliation among all the peoples in the country. Only through such a movement could democracy blossom and old wounds be healed.

4. Ms. DEGAWAN (Anti-Slavery International) said that debt bondage was the most common form of slavery affecting indigenous peoples and that it occurred primarily because indigenous peoples had lost direct access to and control over their lands and resources. That situation affected the indigenous Aeta and Agta peoples in the Philippines.

5. With the advent of the World Trade Organization (WTO) and the subsequent economic and trade liberalization instituted by Governments, indigenous peoples were once again being required to sacrifice their lands, resources and lives in the interest of global competitiveness. Foreign mining companies, lured to the Philippines by the Government, had overrun the ancestral lands of the Igorot people. Meanwhile, the lands of the Ibaloys were under the double threat of mines and dams.

6. Despite the so-called restoration of democracy in the Philippines, the Government had held no meaningful dialogue or consultations with the affected peoples; in fact, those who publicly opposed the dam project were harassed by government agents. She called upon Governments to support the initiative to carry out a land-rights study for the benefit of indigenous peoples.

7. The United Nations continued to limit the participation in its meetings of the representatives of indigenous peoples, who still had to rely on the goodwill of accredited non-governmental organizations (NGOs) in order to participate, and even then were subject to severe limitations. To ensure the effective exercise of the rights which it sought to uphold, the Organization should allow indigenous peoples to participate in all discussions and decisions affecting their lives.

8. Many indigenous peoples' organizations (especially Asian ones) remained unaccredited owing to the opposition of Governments. Some Governments arbitrarily denied the representatives of indigenous peoples the right to leave their country to attend international meetings on indigenous issues; that practice, as well as the practice of denying indigenous peoples the right to host international conferences, should be stopped.

9. She appealed to all member States to support the resolution on a second workshop on the proposed permanent forum for indigenous people, as well as all related initiatives by indigenous peoples; in particular, she called upon the Asian Governments to follow the lead of Denmark and Chile by offering to host follow-up discussions on the permanent forum.

10. Ms. OLGUIN (International Indian Treaty Council) said that the draft declaration on the rights of indigenous peoples recognized, positively and directly, the most fundamental of all of those rights: the rights of the peoples themselves, unlike, for example, the Convention on Biological Diversity, which recognized the contributions of indigenous "communities" although it was not isolated groups of people but entire cultures that had helped to preserve the world's biological diversity. She thus hoped that the draft declaration would be adopted as approved by the Sub-Commission, without amendment or qualification.

11. Indigenous peoples could not survive if they were denied an effective voice in their own destinies and if they were not recognized as peoples by the institutions of pluralistic, democratic States. She hoped that all Governments would support the recognition of indigenous peoples as peoples in the draft declaration and in the countries in which they lived.

12. Such recognition was linked to the recognition of indigenous land rights. The problem of land claims could be settled only through meaningful dialogue and mutual respect between indigenous peoples and the States concerned. Her organization thus fully supported the appointment of a special rapporteur to conduct a comprehensive study on the problems associated with indigenous land claims.

13. It was regrettable that the United Nations had expended minimal resources to promote the International Decade of the World's Indigenous People. The establishment of a permanent forum for indigenous people within the Economic and Social Council was essential for the very survival of indigenous peoples as peoples. The decision to hold a second workshop on the proposed permanent forum was thus a welcome one.

14. Mr. DEER (War Resisters International) said that, although he welcomed the inclusion of indigenous issues on the Commission's agenda, the strict application of the rules concerning participants from indigenous organizations was frustrating for those who had thereby been prevented from speaking. Moreover, the presentation of indigenous issues lacked cohesion because not all States, observers and NGOs were represented when every statement was delivered. He deplored the disrespect shown by the many participants who failed to listen to the statements of others.

15. While serving as co-chairman of the caucus of indigenous peoples of the working group established to elaborate a draft declaration, he had noted that many Governments had been unwilling to listen to the statements of the indigenous participants. Moreover, some Governments had not allowed indigenous people to attend the Commission's current session to express their views on a declaration that would affect their lives. United Nations meetings would become more confrontational unless creative ways were found to let the representatives of indigenous people participate; the Commission should spearhead such efforts and give those representatives the chance to express themselves at its sessions.

16. He welcomed the European Parliament's support for the draft declaration, which showed that States with indigenous populations were not the only ones interested in promoting indigenous rights. All States should, of course, promote human rights for everyone.

17. The CHAIRMAN said that the strict enforcement of the rules on participation was intended not to be discriminatory but to take account of time constraints.

18. Mr. MORA SECADE (Centro de Estudios Europeos) said that, while the draft declaration on the rights of indigenous peoples enjoyed wide support among NGOs, some Governments, instead of proposing specific amendments to the draft, had raised philosophical objections which revealed their lack of political will to implement its principles. Although no single definition could encompass all indigenous peoples, every country knew which peoples within its borders were indigenous. Conquest and colonial domination was the common feature that distinguished the problems of indigenous peoples from those of minorities.

19. States must recognize and protect indigenous peoples' right to maintain their identity, territories and culture. Their intellectual property rights must also be respected. Indigenous peoples suffered discrimination in terms of access to education, health care and the fruits of development, and even to their ancestral lands. Dispossessing indigenous peoples was not in the national interest, but was in the interest of the companies that took over the lands. Instead of protecting indigenous rights, Governments had become instruments of despoilment and repression.

20. Nonetheless, a significant number of Governments had the political will to build a consensus on the legal rights of indigenous people. A just solution to the problems involved was a key factor in guaranteeing the stability, governability and development of States. Recognition of indigenous peoples' right to self-determination was not incompatible with the territorial integrity of States.

Statements in exercise of the right of reply

21. Mr. CHINWANNO (Thailand) said that his Government had for a long time been taking steps to address the plight of the Karen displaced persons from Myanmar, inter alia by giving international aid agencies and relief workers access to Thailand to provide food and shelter to those persons.

22. Thailand had always provided generous hospitality to all those fleeing unrest in neighbouring countries. Currently, the nearly one million illegal immigrants and displaced persons from Myanmar placed an enormous social, economic and security burden on Thailand. Nonetheless, the country would continue its tradition of providing safe refuge and humanitarian assistance to such people.

23. His Government firmly supported the peaceful resolution of the ethnic conflicts in Myanmar. It granted Karen civilians fleeing Myanmar permission to stay in Thailand temporarily and allowed NGOs to provide humanitarian aid. It had also taken steps to move Karen displaced persons to safer areas further inside Thailand.

24. In March 1997 the regional representative of the United Nations High Commissioner for Refugees (UNHCR) had conveyed his organization's appreciation to the Thai authorities for their policy of granting temporary refuge to persons fleeing conflict in Myanmar.

25. Mr. FERNANDEZ (Philippines), referring to the statement made by Anti-Slavery International on behalf of the Cordillera People's Alliance, said that there was no basis for the allegation that debt bondage was a common form of slavery affecting indigenous communities in the Philippines. The rights of those communities were recognized and protected in the 1987 Philippine Constitution, and the Government had recently been issuing Certificates of Ancestral Domain Claims to indigenous cultural communities.

26. It was a distortion of the truth to allege that ancestral lands were being overrun by foreign mining companies, when any population displacement caused by mining activities was always carried out in consultation with the affected communities and with due process of law. It was also incorrect to assert there was no meaningful dialogue or consultation between the Government and affected peoples; for example, in the case of both the Casecnan irrigation and power project and the Mt. Apo geothermal project, the affected tribes had been consulted and their consent secured.

27. In addition, the Government held regular monthly talks with indigenous cultural communities and the Offices of the Northern and Southern Cultural Communities had been created specifically to address their concerns. His Government's policy was to respond to all grievances raised by indigenous communities, and he invited the representatives of the Cordillera People's Alliance to discuss their concerns with members of his delegation.

28. Mr. MANOUSSAKIS (Observer for Greece) said he wished to remind the Minister for Foreign Affairs of The Former Yugoslav Republic of Macedonia that the correct title of that country was "The Former Yugoslav Republic of Macedonia".

29. Mrs. GORGIEVA (Observer for The Former Yugoslav Republic of Macedonia) replied that the Minister was quite entitled to use the constitutional name of his country, namely, the Republic of Macedonia.

30. Mr. MANOUSSAKIS (Observer for Greece) said that to call The Former Yugoslav Republic of Macedonia by any other name rendered Security Council resolution 817 (1993) meaningless.

31. Mrs. GORGIEVA (Observer for The Former Yugoslav Republic of Macedonia) said she regretted that the observer for Greece had once again misinterpreted the resolution in question.

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(agenda item 9) (E/CN.4/1997/3, 35-42, 43 and Add.1, 44-46, 47 and Add.1, 2, 3 and 4 and 119; E/CN.4/1997/NGO/10, 24 and 28; A/51/483 and Add.1 and 506 and Add.1)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 18) (E/CN.4/1997/84-86 and 88-90; E/CN.4/1997/NGO/33 and 63; A/51/453 and Add.1)

32. Ms. RISHMAWI (Independent Expert on Somalia), introducing her report (E/CN.4/1997/88), said that Somalia was still engulfed in internal conflict and had no central government. The international community, had focused on the establishment of a central government and delivery of basic humanitarian aid, while largely ignoring human rights issues. Her mandate was to report on those issues and study ways of re-establishing respect for human rights and the rule of law and strengthening the police, judicial and prison systems in Somalia.

33. Three distinct regional trends had been identified by United Nations agencies operating in Somalia; zones in crisis, zones experiencing recovery, and zones moving from crisis to recovery. The zones in crisis were generally under the control of factions and irregular armed forces, the zones experiencing recovery, mainly in the north including the unrecognized state of "Somaliland", had some security, services and governance, while the zones in transition had localized and often disputed political authority.

34. There were currently many refugees from Somalia in Kenya, Ethiopia and Djibouti and the number of internally displaced persons had increased as a result of food shortages and drought. There had been outbreaks of disease in several areas and violations of human rights and humanitarian law continued,

particularly in Mogadishu. The human rights dimension was being overlooked by several international bodies operating in the country, an omission which should be corrected by the Commission.

35. A solid human rights programme would advance efforts to restore peace and stability to Somalia whereas peace alone was no guarantee of the full observance of human rights and humanitarian law. It was essential, in the absence of a central Government, to introduce the emerging local authorities to human rights principles, especially in the area of the administration of justice. The examination of the human rights situation in Somalia should continue and be strengthened. The establishment of a field presence to raise the profile of human rights should be explored, and the cooperation of United Nations agencies sought in drawing up a comprehensive needs assessment.

36. Ms. COOMARASWAMY (Special Rapporteur on violence against women, its causes and consequences), introducing her report (E/CN.4/1997/47 and Add.1-4), said she had chosen to highlight the issue of physical, sexual and psychological violence against women that occurred within the general community. The community was often the setting for brutality, violence and discrimination against women, but it could also be a nurturing space, providing women with social support and solidarity and developing institutions to provide legal, psychological and other kinds of assistance. The international community should help the groups struggling to eradicate violence against women by means of effective standard-setting and enlightened intervention.

37. The emergence of State responsibility for violence in society was one of the most important contributions of the women's movement to the issue of human rights. The State could no longer maintain that it was responsible only for its own actions or those of its agents; it was expected to exercise due diligence in preventing violence against women, as well as in prosecuting and punishing those who committed such violence.

38. The foremost manifestation of violence against women in the community was sexual assault, but the legal framework in many societies was still defined by male perceptions and standards. The victim was required to provide extraordinary evidence of corroboration and, all too often, her character and reputation were on trial rather than the defendant.

39. The criminal justice system in most societies was often insensitive to the needs of women and her field visits to Brazil and South Africa (E/CN.4/1997/47/Add.2 and 3) had convinced her that the international community should press Governments to formulate national plans of action to eradicate violence against women. The plans should include measures to criminalize sexual harassment, which was used as a powerful control mechanism to maintain women's subordinate status. Sexual harassment in the workplace must be seen as gender discrimination, and provision made for compensation if the victim were forced to leave her employment.

40. She had made a special visit to Poland to study the problem of forced prostitution and trafficking, with particular reference to women trafficked from eastern to western Europe (E/CN.4/1997/47/Add.1). Such trafficking had become a serious problem. There was a demand for foreign women, which

organized crime networks had begun exploiting, and poverty and unemployment had led to an increase in the pool of potential recruits. The lack of an effective international regime for collecting data and policing trafficking meant that the perpetrators went largely unpunished.

41. In the vast majority of cases, women were enticed into prostitution by false job offers and marriage proposals. Having been trafficked for prostitution, they then lost control of their lives, were subjected to violence and brutality and deprived of their liberty by removal of their passports and constant surveillance of their activities.

42. Only an international regime guaranteeing State responsibility, targeting traffickers and protecting the victims could effectively deal with the problem of forced prostitution and trafficking. There was a desperate need for international dialogue on the framework of a new international regime, a dialogue which should focus on trafficking. NGOs and government agencies must work together to ensure protection of the victims and the successful prosecution of offenders.

43. Her report highlighted the practices of the Taliban in Afghanistan as an illustration of the brutal violence against women that could emerge with religious extremism. The phenomenon was not limited to a single religion or group of countries. Governments should implement legislation and programmes to eradicate customs and practices that militated against the full enjoyment of human rights.

44. Her first term as Special Rapporteur on violence against women had been a rewarding one. She had seen the anguish of the victims of such violence, but she had also seen the activism, energy and dedication of Governments, NGOs and individuals committed to the cause of eradicating the violence. She was convinced that, with time and effort, it would be possible for the women of the world to live in freedom, honour and dignity, without fear of violence.

45. Ms. TAKLA (Chairperson of the Board of Trustees of the Voluntary Fund for Technical Cooperation in the Field of Human Rights), introducing the report of the Secretary-General on technical cooperation in the field of human rights (E/CN.4/1997/86), said that the Technical Cooperation Programme differed from other human rights activities in that it implemented field projects for the establishment and functioning of institutions and programmes required to ensure respect for human rights. It supported national efforts to strengthen court systems, provide training for the police, judges and prosecutors, improve prison conditions, and, in general, eliminate and incriminate injustice, violence, atrocities, bloodshed and torture. Technical cooperation was a sustainable process which should find a permanent place on the map of human rights activities.

46. Over the past three years, the management of the Technical Cooperation Fund and Programme had become more efficient and systematic in regard to training, the development of strict management rules and the regular monitoring and evaluation of projects. The total number of ongoing and envisaged projects had increased by 40 per cent in the past year and the Board of Trustees was currently viewing or reviewing about 60 projects in

32 countries. Unfortunately, the increase in the number of projects had not been matched by an increase in funds: the level of available resources was some US$ 4 million below what was needed.

47. The fact that fruitful inter-agency cooperation had been established was evidenced by the many projects developed and/or implemented in cooperation with the United Nations Development Programme (UNDP) and other agencies. A broader framework had been developed, covering the promotion of economic, social and cultural rights and of the human rights of vulnerable groups, such as women and children. The Technical Cooperation Programme had adopted some important initiatives aimed at ensuring the integration of a gender perspective into projects.

48. Technical cooperation activities could not be effectively implemented without strong administrative support, an issue that the Board hoped would be addressed as part of the restructuring of the Centre for Human Rights. The Programme must remain independent and be managed by a distinct unit within the new secretariat structure.

49. Another concern was financial: it was imperative that at least US$ 8 million be raised within the next two years. The net amount of pledges and contributions in 1996 had been US$ 2.7 million. Since the shortage of funds was a real obstacle, she suggested the possibility of a "debt for human rights swap". It might be easier for a donor to allocate money for a project requested by a debtor than to appropriate new funds for a project. The idea had been a successful one in the case of the "debt for environment swap".

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS AND TRADE OF PAPUA NEW GUINEA

50. Mr. GENIA (Papua New Guinea) recalled that, in 1996, his Government had committed itself to establishing a human rights commission. He thanked the Commission on Human Rights for providing support in that endeavour in the form of financial and technical assistance through UNDP. All the necessary domestic legislative and administrative requirements for its establishment were in the process of being finalized.

51. With regard to the issue of Bougainville, he said that his Government took the allegations of human rights violations there very seriously. Though it had launched peace initiatives, they had all been thwarted by the Bougainville Revolutionary Army (BRA) through sporadic attacks in strategic areas of the province, non-attendance at peace negotiations that it had itself requested and insistence on nothing less than independence. His Government believed the only way forward was for both the BRA and the Bougainville Interim Government (BIG) to join the Bougainville Transitional Government (BTG) and address all outstanding issues, including the future political status of Bougainville within the framework of the Constitution of Papua New Guinea.

52. His Government was committed to a peaceful solution and saw the role of all citizens in conflict resolution as crucial. It would continue to give the people of Bougainville every opportunity to achieve peace and reconciliation

through provincial and local-level governments, which included the BTG and the interim authorities governing the various linguistic and ethnic groups in the province.

53. His Government was mindful of the fact that the Solomon Islands had borne the full brunt of dealing with rebels from Bougainville who had entered that country in defiance of immigration laws. Though some differences of opinion had emerged in relations with the Solomon Islands, he was convinced that both countries were genuinely committed to addressing together the spill-over effect of the Bougainville situation on the Solomon Islands. Papua New Guinea was committed to implementing the understanding reached between the two countries on joint surveillance of the maritime border and the arrest and extradition of illegal immigrants.

54. Turning to the recent events in Port Moresby, he said that, despite the threat they had represented to parliamentary democracy, the principles of good governance and the rule of law had been upheld without a single shot being fired. The uprising of the people and the military was a clear indication of the desire of the citizens to see peace brought to Bougainville - not by the barrel of a gun, but through dialogue and consultation. The people had clearly demonstrated what his Government had always maintained, namely, that Bougainville was an integral part of Papua New Guinea, and that it would not allow guns and foreign military elements there. The contract with Sandline International had thus been suspended. The onus was currently on the leaders of the BRA to respond seriously and enter into genuine negotiations.

55. The allegations of human rights violations by the Papua New Guinea Defence Force and elements of the BRA remained mere allegations: his Government had no conclusive reports on the question. The assassination of the late Premier, Theodore Miriung, had been a national tragedy and a great loss for the peace process. The independent inquest had implicated the Papua New Guinea security forces and the Government had reacted speedily to ensure the prosecution of the guilty persons.

56. The allegations of ethnic discrimination and denial of the right to self-determination made by the BRA/BIG were disingenuous: Papua New Guinea had 850 languages and tribes, while Bougainville had 19 languages and 35 ethnic groups. The Bougainville crisis was an internal affair of a sovereign State. Many other States were not only highly sensitive to the adverse implications for their own unity of a break-up of Papua New Guinea but were also strongly opposed to the proliferation of small States. He thus appealed to all Member States not to recognize or support independence for Bougainville.

57. Since the crisis on Bougainville had erupted in 1987, his Government had spent over US$ 1 billion on the province including the cost of restoring essential services such as education, health and the institutions of justice. At the same time, however, the rights of residents of Bougainville to education, health and justice were being undermined by the BRA scorched earth policy.

The meeting rose at 6.05 p.m.